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C O N F I D E N T I A L HONG KONG 000040

SIPDIS

STATE FOR EAP/CM, EEB/IFD/OIA, EAP/MTS; PARIS/OECD FOR
O'REILLY AND TREASURY FOR JOHN HARRINGTON

E.O. 12958: DECL: 01/07/2034
TAGS: [ECON](#) [EFIN](#) [PGOV](#) [EINV](#) [HK](#)
SUBJECT: FRENCH ASK FOR U.S. SUPPORT ON DOUBLE TAXATION
AND INFO EXCHANGE IN HONG KONG

Classified By: Consul General Joe Donovan, Reasons 1.4 b/d

¶1. (C) Summary and Action Request: The French Consul General has proposed that we approach the Hong Kong Government (HKG) together to press for adoption of amendments to Hong Kong tax law that would liberalize rules on Exchanges of Information with foreign jurisdictions. This would allow OECD members to sign double taxation agreements with Hong Kong, said the French CG. The HKG is currently considering these changes, which the American and French Chambers of Commerce in Hong Kong have strongly supported, according to the French CG. He believes a joint approach by like-minded economies would encourage the HKG to quickly adopt these amendments and would pressure Singapore to follow suit. ACTION REQUEST: Post requests Department's guidance on the appropriate response to this request. End Summary and Action Request.

¶2. (C) The French Consul General for Hong Kong Jean-Pierre Thebault and the French Senior Trade Commissioner for Hong Kong Jean-Claude Bernard called on the Consul General January 6 to propose a joint approach to the HKG in support of revising Hong Kong law on Exchanges of Information to bring Hong Kong into conformity with OECD 2004 rules. Revising Hong Kong law would allow additional countries (including OECD members) to sign double taxation agreements (DTAs) with Hong Kong. (Note: Hong Kong currently has five DTAs with Belgium (2003), Thailand (2005), China (2006), Luxembourg (2007) and Vietnam (2008), all based on the 1995 OECD Exchange of Information rules. End Note.)

¶3. (C) As the European Union has taken measures to increase pressure on the "tax havens" of Switzerland and Liechtenstein, French officials are concerned that tax evaders may seek other hospitable jurisdictions for their money, said Thebault, with Hong Kong and Singapore viewed as the most likely Asian recipients. Adoption of the OECD 2004 Exchange of Information rules would allow OECD countries to sign DTAs with Hong Kong and clarify tax obligations. Ideally, Hong Kong will move first to adopt the OECD 2004 Exchange of Information rules, putting additional pressure on Singapore to follow, he hoped.

¶4. (C) A second-best outcome would be for Hong Kong to announce it will adopt stricter information exchange rules when Singapore does, again putting pressure on Singapore to move, he said. Thebault added that his colleagues in Singapore understand the Government of Singapore is refusing to revise its law because it does not want to give Hong Kong a competitive advantage. The French Ambassador in Singapore has already called on his counterparts, including the U.S. Ambassador in Singapore, to discuss this issue, according to Thebault.

15. (C) The HKG has been considering revising its law on information exchange and in Fall 2008 conducted a series of consultations on a proposal to adopt the 2004 OECD rules. The American Chamber of Commerce came out strongly in favor of amending the law in order to improve Hong Kong's competitiveness and attract additional investment in an October 2008 article in AmCham Hong Kong Magazine. The Bauhinia Foundation, a prominent Hong Kong think tank closely allied to the government, published a paper in May 2008 in favor, and according to Thebault, the French Chamber of Commerce also enthusiastically supports amending Hong Kong's law. Hong Kong Secretary for Financial Services and the Treasury K.C. Chan told Thebault last fall that the HKG would wait for the outcome of the consultation process; that process concluded in November 2008 and the HKG is expected to announce a decision on whether to propose adopting the amendments sometime this year. During consultations, Hong Kong officials suggested they were concerned that the OECD 2004 Exchange of Information rules require collection of information not necessary for Hong Kong tax purposes and may violate Hong Kong privacy rules.

16. (C) The global financial crisis could give governments an excuse not to take action, Thebault said, but that inclination should be resisted. He allowed that he had not been directed by his government to seek U.S. support for a joint approach to the Hong Kong government, but believes a joint approach, also including Germany, the U.K. and Japan, would usefully encourage the HKG to move quickly to adopt stronger information exchange provisions and increase pressure on Singapore to follow Hong Kong's lead.
DONOVAN